

# SUMMARY REPORT DIGEST

## CHICAGO POLICE DEPARTMENT

COMPLAINT LOG NO.  
315057

TYPE  
CR

DATE OF REPORT (Day-Mo.-Yr.)  
31 May 2007

**INSTRUCTIONS:** To be used in all cases that are to be classified as either **EXONERATED, UNFOUNDED, NOT SUSTAINED**, or in **SUSTAINED** cases where the Disciplinary Recommendation does not exceed **FIVE (5) DAYS SUSPENSION**. SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED. SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

**TO:** SUPERINTENDENT OF POLICE

ATTENTION ☐ ADMINISTRATOR IN CHARGE, OFFICE OF PROFESSIONAL STANDARDS

☒ ASSISTANT DEPUTY SUPERINTENDENT, INTERNAL AFFAIRS DIVISION

FROM -INVESTIGATOR'S NAME  
Gwendolyn HARRIS

RANK  
P/A

STAR NO.  
7938

EMPLOYEE NO.  
[REDACTED]

UNIT ASSIGN.  
121-G

UNIT DETAILED

REFERENCE NOS. (LIST ALL RELATED C.L., C. B., I.R., INVENTORY NOS., ETC., PERTINENT TO THIS INVESTIGATION)

Search Warrant # 06SW6149, [REDACTED]

ADDRESS OF INCIDENT  
7939 S Tripp

DATE OF INCIDENT -TIME  
22 Aug 06 2120

BEAT OF INCIDENT  
834

| ACCUSED                            | NAME                   | RANK                | STAR NO.                       | EMPLOYEE NO.                                                                  | UNIT ASSIGN.                                                                | UNIT DETAILED |            |
|------------------------------------|------------------------|---------------------|--------------------------------|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------|---------------|------------|
|                                    | 1. Aaron CUNNINGHAM    | P/O                 | 15522                          | [REDACTED]                                                                    | 024                                                                         | 214           |            |
|                                    | 2. Matias PADILLA, Jr. | P/O                 | 11833                          | [REDACTED]                                                                    | 010                                                                         | 214           |            |
|                                    | 3. Gregory BARNES      | P/O                 | 18855                          | [REDACTED]                                                                    | 012                                                                         | 010           |            |
| SEX/RACE                           | D.O.B.                 | DATE OF APPOINTMENT | DUTY STATUS (TIME OF INCIDENT) |                                                                               | SWORN / CIVILIAN                                                            |               |            |
|                                    | 1. M/W                 | [REDACTED] 67       | 29 Jun 98                      | <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY | <input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN |               |            |
|                                    | 2. M/H                 | [REDACTED] 77       | 29 May 01                      | <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY | <input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN |               |            |
|                                    | 3. M/W                 | [REDACTED] 68       | 05 Jun 95                      | <input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY | <input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN |               |            |
| IF APPLIES, DATE ARRESTED/INDICTED |                        | CHARGES             |                                | COURT BRANCH                                                                  | DISPOSITION & DATE                                                          |               |            |
| 1.                                 |                        |                     |                                |                                                                               |                                                                             |               |            |
| 2.                                 |                        |                     |                                |                                                                               |                                                                             |               |            |
| 3.                                 |                        |                     |                                |                                                                               |                                                                             |               |            |
| COMPLAINANT                        | NAME                   | ADDRESS**           | CITY                           | STATE                                                                         | TELEPHONE                                                                   | SEX/RACE      | D.O.B./AGE |
|                                    | [REDACTED]             | [REDACTED]          | [REDACTED]                     | [REDACTED]                                                                    | [REDACTED]                                                                  | M/W           | unk        |
| VICTIMS                            | NAME                   | ADDRESS**           | CITY                           | STATE                                                                         | TELEPHONE                                                                   | SEX/RACE      | D.O.B./AGE |
|                                    |                        |                     |                                |                                                                               |                                                                             |               |            |
| WITNESSES                          | NAME                   | ADDRESS**           | CITY                           | STATE                                                                         | TELEPHONE                                                                   | SEX/RACE      | D.O.B./AGE |
|                                    |                        |                     |                                |                                                                               |                                                                             |               |            |

☒ SEE ATTACHED SHEET FOR ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, WITNESSES.

\*\*IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

Accused 1 through 11:

It is alleged by [REDACTED] that on 22 Aug 06 at approximately 2120 hours, during the execution of search warrant [REDACTED] at 79 [REDACTED] S. Tripp, the accused: (1) failed to return or inventory \$16,000.00 USC. (2) failed to return or inventory his gold jewelry.

It is further alleged by Agent HARRIS, #7938, that during the execution of search warrant [REDACTED] on 22 Aug 06 at 79 [REDACTED] S Tripp, the accused: (3) failed to inventory large quantities of consumer electronics, cellular phones, numerous luxury handbags and power tools that were observed on the scene.

(4) failed to notify the 8th District on duty watch commander that search warrant [REDACTED] was being executed or had been executed at 79 [REDACTED] S. Tripp.

|                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                    |                                               |                                                          |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------|
| <b>SUMMARY</b>                                                                                       | <p>Briefly summarize the investigation describing your efforts to prove or disprove the allegation(s). Indicate whether witnesses or evidence support or do not support the allegation(s).<br/>         In sustained cases ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments.</p>                                                                                                          |                                                                                    |                                               |                                                          |
|                                                                                                      | <p>SEE PAGES 2 through 5 FOR INVESTIGATION</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                    |                                               |                                                          |
| <b>ATTACH-<br/>MENTS</b>                                                                             | INVESTIGATIVE REPORTS-<br>SUPPORTING ALLEGATION<br>LIST ATTACHMENT NUMBERS:                                                                                                                                                                                                                                                                                                                                                                                                                         | INVESTIGATIVE REPORTS-<br>SUPPORTING ACCUSED MEMBER(S)<br>LIST ATTACHMENT NUMBERS: | PHYSICAL EVIDENCE LIST<br>ATTACHMENT NUMBERS: | TOTAL NUMBER OF ATTACHMENTS<br>SUBMITTED WITH THIS FILE: |
|                                                                                                      | none                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | none                                                                               | none                                          | 15                                                       |
| <b>FINDINGS - RECOMMENDATIONS</b>                                                                    | <p>Summarize the findings and recommendations. Rule violations will be cited by number only. One overall recommendation for Disciplinary Action will be made by the investigator. The recommendation will be for ALL sustained findings; recommendations will NOT be made for each sustained allegation. Example: 1. Violation noted, no disciplinary action warranted. 2. That the accused member be reprimanded. 3. That the accused member be suspended for --- days (not to exceed 5 days).</p> |                                                                                    |                                               |                                                          |
|                                                                                                      | <p>SEE PAGES 5 through 6 FOR FINDINGS AND RECOMMENDATIONS</p>                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                    |                                               |                                                          |
| DATE INITIATED (Date complaint was received for investigation)                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | DATE COMPLETED (Date of this report)                                               |                                               | ELAPSED TIME (Total time expressed in days)              |
| 23 Aug 06                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 31 May 07                                                                          |                                               | 281                                                      |
| Investigator will initiate the Command Channel Review form by completing the Investigator's Section. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                    |                                               |                                                          |

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1. **Additional Accused:**

| Accused Rank & Name              | Star  | Emp        | Unit    | DOA       | DOB        | Sex/Race |
|----------------------------------|-------|------------|---------|-----------|------------|----------|
| 4. P/O Tony <b>HENRY</b>         | 18642 | [REDACTED] | 017/214 | 05 Dec 94 | [REDACTED] | 61 M/B   |
| 5. P/O Derrick <b>DENTON</b>     | 19152 | [REDACTED] | 010/214 | 02 Dec 96 | [REDACTED] | 56 M/B   |
| 6. P/O Jacinta <b>O'DRISCOLL</b> | 6247  | [REDACTED] | 011/193 | 29 Jun 98 | [REDACTED] | 51 F/W   |
| 7. P/O Richard <b>ALVAREZ</b>    | 6265  | [REDACTED] | 012/214 | 27 Mar 91 | [REDACTED] | 66 M/H   |
| 8. P/O Vincent <b>MATTHEWS</b>   | 7650  | [REDACTED] | 011/013 | 21 Jun 99 | [REDACTED] | 63 M/B   |
| 9. Sgt. John <b>GARTNER</b>      | 2523  | [REDACTED] | 011/214 | 30 Jan 91 | [REDACTED] | 56 M/W   |
| 10. Sgt. Lisa <b>MANN</b>        | 1717  | [REDACTED] | 011/603 | 01 Dec 03 | [REDACTED] | 77 F/W   |
| 11. Lt. Leo <b>SCHMITZ</b>       | 605   | [REDACTED] | 012/214 | 11 Aug 86 | [REDACTED] | 59 M/W   |

2.

**EVIDENCE**

1. Complaint Against Department Member and Investigation Conflict Certification.
2. Report of Agent G. HARRIS, #7938, Unit 121, "Contacts with Complainant [REDACTED]" dated 29 Aug 06 and related documents.
3. Report of Agent G. HARRIS, #7938, "Search Warrant for 79 [REDACTED] South Tripp," dated 30 Aug 07 and related documents.
4. Copy of related Event Query for 79 [REDACTED] S Tripp.
5. Report of Agent G. HARRIS, #7938, "Obtained Copy of Search Warrant [REDACTED]" dated 31 Aug 06 and related document.
6. Copy of I-CLEAR Search Inventory Queries as RD and Search Warrant Numbers.

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7. Report of Agent HARRIS, #7938, "Attempts to Obtain Canine Report for Beat 4618A," dated 31 Jan 07.
8. Report of Lieutenant D. NALEWAY, #367, Unit 121, "Continued Investigation of CR# 315057, dated 06 Feb 07.
9. Report of Agent HARRIS, #7938, "Attempt to Contact [REDACTED]" dated 22 Feb 07.
10. Statement of Commander Leo SCHMITZ, Unit 008, dated 15 May 07 and related documents.
11. Statement of Police Officer Aaron CUNNINGHAM, #15522, Unit 214, dated 18 May 07, and related documents.
12. Statement of Sergeant John GARTNER, #2523, Unit 011, dated 25 May 07, and related documents.
13. Statement of Sergeant Lisa MANN, #1717, Unit 603, dated 29 May 07 and related documents.
14. Report of Agent G. HARRIS, #7938, "214 Attendance & Assignment Records," dated 29 May 07 and related documents.
15. Copy of Cook County Assessor's Office Property Details for 79 [REDACTED] S. Tripp.

3.

INVESTIGATION

Following assignment to this complaint, the undersigned telephoned complainant [REDACTED] on 24 Aug 06 at approximately 1430 hours. In essence and not verbatim, [REDACTED] stated [REDACTED] is a retired Chicago police officer who continues to harass him and his family. [REDACTED] stated that on 22 Aug 06, the day the warrant was executed, [REDACTED] warned him that his home would be raided that evening and [REDACTED] even came to his home during the raid. Complainant [REDACTED] alleged that the police searched his home and failed to inventory or return \$16,000.00 USC and his gold jewelry. As the undersigned attempted to assuage the complainant and explain the required sworn affidavit, [REDACTED] stated that he was not going to sign an affidavit nor speak with the undersigned any further.

A certified letter under article number [REDACTED] was sent to [REDACTED] on 25 August 06, and the domestic return receipt reflects that it was delivered on 29 Aug 06. However, [REDACTED] has failed to respond.

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In that there is no active member named [REDACTED] on the Department, no action has been taken relative to that alleged individual.

The Eighth District Tactical Office had no record of a warrant executed at 79 [REDACTED] S Tripp, but an event query revealed that Beat 44G74 (Area 4 Gun Team) was at that location. Consequently, a copy of Search warrant package [REDACTED] was obtained. Members listed on the search team was compared to the Attendance and Assignment Record which reflects that Police Officers ANDERSON, SANCHEZ, CASTANEDA, and LOBIANCO were assigned to Districts 010 or 011 that day. Therefore, they were omitted as accused and the remaining members listed on the warrant were identified as the accused.

The Complaint for Search Warrant named [REDACTED] (F/H/36) as the subject and items for consideration were any controlled substances, drug paraphernalia, money or records detailing illegal drug activity. Further review of that package failed to show that the search warrant team inventoried any property. Yet, more than \$16,000.00 USC is stated in the narrative of the Supplementary Report, referenced [REDACTED]. That report indicates that target [REDACTED] counted the currency and stated, "It's all there." It should also be noted that the Supplementary Report indicates large quantities of electronics, luxury handbags, and power tools were observed by the accused. The report reflects that [REDACTED] stated the owner of those items was [REDACTED] who did not reside at that location. Lastly noted in the Supplementary Report is a consensual interview of [REDACTED] who stated that he rents subject location to [REDACTED].

Photographs taken by the requested evidence technician and a negative Canine Use Report prepared by the responding canine team are included in this investigative file.

Due to the criminal nature of the allegations, the Commanding Officer of the Internal Affairs Division's General Investigations Section, Lieutenant David NALEWAY, determined that this investigation would be continued without a sworn affidavit from the complainant. As such, an attempt to contact [REDACTED] on 21 February 2007, was made at the number provided by Directory Assistance. Closer review showed that number to be the same telephone number listed for complainant, [REDACTED]. An individual with a male voice answered the call and refused the undersigned's request to speak with [REDACTED], stating that he was [REDACTED]. Certified letter [REDACTED] was delivered to [REDACTED] on 24 Feb 07, but she has not contacted this office.

Under administrative rights, accused Commander (then Lieutenant) SCHMITZ responded to the allegations stating that he was the [REDACTED] lieutenant on the scene. He stated that he could not recall if complainant [REDACTED] was also [REDACTED] because he [REDACTED] used many different names. SCHMITZ stated that the \$16,000.00 USC and gold were not inventoried because no narcotics were seized at the

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address. He stated that the currency and gold was photographed to make sure that there was a record of same, adding that all property was returned to [REDACTED] on the scene. Commander SCHMITZ further stated that the electronics, handbags, and power tools were not inventoried because there was nothing showing those items were stolen property. SCHMITZ also denied failure to notify the 8<sup>th</sup> District watch commander of the execution of the warrant, stating that Sergeant GARTNER and Officer O'DRISCOLL made the appropriate notifications. SCHMITZ denied improprieties of his subordinates.

Police Officer Aaron CUNNINGHAM stated that he was the affiant for the warrant which named targets [REDACTED] and [REDACTED] at 79 [REDACTED] South Tripp. He too stated that since they were unable to recover cocaine in the residence, the team decided to return the currency and jewelry to the target [REDACTED]. He stated that those items were photographed as an attempt to document what he believed to be an unjustifiable cash flow of [REDACTED] in that they both are unemployed. He further stated that he forwarded such information to the financial crimes unit for continued investigation.

CUNNINGHAM stated that once the searching of the residence was completed, he proceeded outside to interview [REDACTED] where he was being detained. CUNNINGHAM stated that [REDACTED] did not make any claim to \$16,000.00 or jewelry during that interview, adding that [REDACTED] claimed ownership. CUNNINGHAM reported that [REDACTED] gave contradictory statements about their relationship, even though the children in the house are [REDACTED].

Regarding the electronics, handbags, and power tools, CUNNINGHAM stated they did not believe that the property was stolen. He again cited that he included that property in his Supplementary Report due to his belief that continued financial investigations at the location are needed. CUNNINGHAM stated that he believed Sergeant GARTNER made radio notification and O'DRISCOLL notified the district desk of the warrant execution.

Sergeant John GARTNER stated that his role during the warrant execution was that of a supervisor as part of the entry team. He stated that [REDACTED] were the exclusive residents at that location where approximately \$32,000.00 USC was discovered. GARTNER stated that all currency was returned to [REDACTED] in its original packaging and was not inventoried because it did not appear to be packaged as narcotics proceeds. He stated that the jewelry was observed in a safe which [REDACTED] consensually opened, then re-locked without the jewelry being removed from the safe at anytime. GARTNER further denied misconduct in allegations three and four.

Sergeant Lisa MANN stated that she assisted as security of the outer perimeter during the warrant execution. She stated that she never saw any currency or jewelry, even during the time she entered the residence to keep watch on the people detained in the household. MANN disavowed all assertions of impropriety.

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In summary, complainant [REDACTED] alleged that on 22 Aug 06, his \$16,000.00 USC and gold jewelry were not inventoried or returned to him by the accused after they executed a search warrant at his residence, 79 [REDACTED] S Tripp. [REDACTED] hindered this investigation by refusing to sign the required sworn affidavit.

A review of the search warrant shows that accused members of the Area 4 Gun Team observed a large sum of currency and jewelry on the scene and the statements obtained from the affiant and two supervisors corroborate that the items remained with [REDACTED] who claimed to be the owner of the currency which was observed in her residence. Also mirrored and consistent in this investigation, is that some type of relationship exists between [REDACTED]. They share the same dwelling of a single family residence and telephone number. A male who identified himself as [REDACTED], hindered this investigation when he refused the undersigned's request to interview [REDACTED] and insisted that the undersigned cease attempts to contact [REDACTED]. The strong credibility of the accused, coupled with their decisions to record and photograph the property on the scene of the targeted residence, greatly outweigh the credibility of [REDACTED] who possibly is [REDACTED]. It is clear that the subject property was not inventoried. However, this investigation is unable to prove or disprove that the currency and jewelry was actually returned. As such allegations one and two are not sustained.

Regarding allegation three, again it is clear that these items were not inventoried. Yet, it is unproven as to whether the property was stolen or rightfully owned. In that the accused decided there was insufficient cause to take control of the electronics, bags, and power tools, and this investigation is unable to ascertain the rightful owner(s), allegation three is not sustained.

Relative to allegation four, the 8<sup>th</sup> District watch commander logs fail to reflect that a notification of a warrant execution was made. The accused's Supplementary Report reflects that 008 District Desk Sergeant BERGELIND was notified. However, there is nothing to prove or disprove that notification was made or that the onus for the oversight lies with Eight District personnel. As such, the allegation is not sustained.

4. **FINDINGS and RECOMMENDATIONS**

Accused #1. Police Officer Aaron CUNNINGHAM, #15522  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.

Accused #2. Police Officer Matias PADILLA, #11833  
Allegations 1 through 4. Not Sustained  
No disciplinary action warranted.

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- Accused #3. Police Officer Gregory BARNES, #18855  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #4. Police Officer Tony HENRY, #18642  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #5. Police Officer Derrick DENTON, #19152  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #6. Police Officer Jacinta O'DRISCOLL, #2523  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #7. Police Officer Richard ALVAREZ, #6265  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #8. Police Officer Vincent MATTHEWS, #7650  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #9. Sergeant John GARTNER, #2523  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #10. Sergeant Lisa MANN, #1717  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.
- Accused #11. Lieutenant Leo SCHMITZ, #605  
Allegations 1 through 4. Not Sustained.  
No disciplinary action warranted.

Case to be filed.